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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,453	04/20/2004	Raymond R. Gosselin	58032US0010	3998

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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/828,453	Applicant(s) GOSSELIN, RAYMOND R.	
	Examiner Patricia L. Nordmeyer	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Repeated Rejection***

1. The 103(a) rejection of claims 1 - 26 over Wright et al. (USPN 6,416,857) in view of Mocilnikar et al. (USPN 5,346,259) in the office action dated June 15, 2006 is repeated as Applicant's amendments and arguments in the response dated September 14, 2006 are found to be unpersuasive. The rejection is repeated below for the Applicant's convenience.

Wright et al. disclose a tamper indicating device (Column 1, lines 9 – 10) used in combination with an object having secured information (Column 9, lines 7 – 18) comprising a backing having a first side and a second side (Column 3, lines 15 – 16), wherein the backing comprises a first phase and a second phase (Column 3, lines 17 – 19), wherein the backing has a first level of light diffusion, and when a peeling force is applied to the backing, the backing fractures (Column 3, lines 32 – 38) and has a second level of light diffusion that is a higher level of light diffusion than the first level of light diffusion (Column 2, lines 27 – 31) a flood coat applied to the second side of the backing (Column 4, lines 53 – 56), an adhesive layer bonded to the flood coat (Column 5, lines 56 – 58) in claims 1, 3, 6, 7, 10, 14 16, 18, 21, 22 and 25. Regarding claims 2, 5; 9, 13, 14, 17, 20; 23 and 24, the tamper indicating device further comprises at least one security marking applied to the first side of the backing (Column 4, lines 56 – 59). As in claims 4, 11, 15, 19 and 26, the adhesive layer is a pressure sensitive adhesive layer covered with a release liner (Column 5, lines 56 – 58). Wright et al. also disclose a tamper indicating device used in combination with an object having secured information (Column 9, lines 7 – 18) comprising a backing having a first side and a second side (Column 3, lines 15 –

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16), wherein the backing comprises a first phase and a second phase (Column 3, lines 17 – 19), wherein the backing is light transmissive, and when a peeling force is applied to the backing, the backing fractures (Column 3, lines 32 – 38) and become more opaque (Column 2, lines 27 – 31); an adhesive layer applied to the second side of the backing (Column 5, lines 56 – 58), wherein the adhesive is colored and bonded to the application surface of the object (Column 9, lines 37 – 42). However, Wright et al. fail to disclose the flood coat defining a window therein, a mask applied to the tamper indicating device, the mask being in partial or whole registration with the window in the flood coat and the security marking has the same color as the flood coat.

Mocilnikar et al. teach an anti-theft label having a flood coat defining a window therein (Figure 3, #32), a mask applied to the tamper indicating device (Figure 3, #30), the mask being in partial or whole registration with the window in the flood coat (Figure 3, #30) and the security marking has the same color as the flood coat (Column 4, lines 34 – 43) for the purpose of having a label that comprises a fragile, easily tearable segment (Column 3, lines 1 – 3) placed over the information, wherein the label and information become unusable due to the damaged label (Column 3, lines 19 – 29).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the flood coat layer with a window covered by a masking layer in Wright et al. in order to have a label that comprises a fragile, easily tearable segment placed over the information, wherein the label and information become unusable due to the damaged label as taught by Mocilnikar et al.

Response to Arguments

2. Applicant's arguments filed September 14, 2006 have been fully considered but they are not persuasive.

In response to Applicant's argument that the varnish (#30) of Mocilnikar et al. cannot be characterized as a mask, Mocilnikar et al. discloses a varnish, but does not state that the varnish is a clear layer. As shown by Mocilnikar et al. a varnish may have a pattern that provides of look of tearing (Column 5, lines 28 – 44). Also, even if the varnish of Mocilnikar et al. is clear, it does not mean that the layer underneath the mask would not be illegible.

In response to Applicant's argument that Mocilnikar et al. cannot be characterized as a mask that is in partial or whole registration with a window in a flood coat, Mocilnikar et al. clearly shows that the masking is in partial or whole registration with a window (Figure 3, #30).

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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Nasser Ahmad 11/6/04
NASSER AHMAD
PRIMARY EXAMINER